

COUNCIL MEETING

JUNE 27, 2018

The Council Meeting of the Council of the County of Kaua'i was called to order by Council Chair Mel Rapozo at the Council Chambers, 4396 Rice Street, Suite 201, Līhu'e, Kaua'i, on Wednesday, June 27, 2018 at 8:50 a.m., after which the following Members answered the call of the roll:

Honorable Arthur Brun (*present at 10:19 a.m.*)
Honorable Ross Kagawa
Honorable Arryl Kaneshiro
Honorable Derek S.K. Kawakami
Honorable JoAnn A. Yukimura
Honorable Mel Rapozo

Excused: Honorable Mason K. Chock

Council Chair Rapozo: Just for your information, Councilmember Brun's son is at the hospital in Waimea, so he is tied up there and will be coming in as soon as he can; and Councilmember Chock is on an airplane trying to get back home.

APPROVAL OF AGENDA.

Councilmember Yukimura moved for approval of the agenda, as circulated, seconded by Councilmember Kaneshiro, and carried by a vote of 5:0:2 (*Councilmember Brun and Councilmember Chock were excused*).

MINUTES of the following meetings of the Council:

June 6, 2018 Special Council Meeting
June 13, 2018 Council Meeting

Councilmember Yukimura moved to approve the Minutes as circulated, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Is there any discussion? Is there anyone from the public wishing to speak on the Minutes?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve the Minutes as circulated was then put, and carried by a vote of 5:0:2 (*Councilmember Brun and Councilmember Chock were excused*).

Council Chair Rapozo: Next item, please.

CONSENT CALENDAR:

C 2018-140 Communication (05/31/2018) from the Mayor, transmitting for Council consideration and confirmation, the appointment of Kenneth N. Rainforth to the Salary Commission – Term ending 12/31/2020.

C 2018-141 Communication (06/06/2018) from the Director of Finance, transmitting for Council information, the Period 8 Financial Reports – Statement of Revenues, Statement of Expenditures and Encumbrances, Revenue Report, and Detail Budget Report as of February 28, 2018, pursuant to Section 21 of Ordinance No. B-2017-821, relating to the Operating Budget of the County of Kaua'i for Fiscal Year 2017-2018.

Councilmember Kagawa moved to receive C 2018-140 and C 2018-141 for the record, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Any public testimony or discussion?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to receive C 2018-140 and C 2018-141 for the record was then put, and carried by a vote of 5:0:2 (*Councilmember Brun and Councilmember Chock were excused*).

Council Chair Rapozo: Next item, please.

JADE K. FOUNTAIN-TANIGAWA, County Clerk: Chair, did you want to do the Executive Session item first?

Council Chair Rapozo: Okay. Was that time-specific for 9:00 a.m. or are we ready to go?

Ms. Fountain-Tanigawa: We are ready.

Council Chair Rapozo: Okay.

There being no objections, ES-951 was taken out of order.

EXECUTIVE SESSION:

ES-951 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing on the litigation of Mark N. Begley vs. County of Kaua'i, et al., Civil No. CV16-00350, and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

Councilmember Kagawa moved to convene in Executive Session for ES-951, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Any public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Discussion? Councilmember Kagawa.

Councilmember Kagawa: For me, sitting on this Council for the past six (6) years or so, this item has been on...it came on prior to myself being on the Council and you talk about "a black cloud over the County" regarding the Kaua'i Police Department (KPD)—Honolulu has their share and Kaua'i has had our share. When you have this kind of case where we have employees on leave with pay for such a long time...the taxpayers come up to you and say, "Wow, why can you folks not solve this kind of problem? It is either wrong, right, or whatever, so get the guy back to work." To go on leave with pay for years—I am not talking about a couple of years—is not reasonable. It is like giving away money. We always say how this County is broke and we do not have money and this and that. I hope going forward, what I always preach from my end as being just a layperson here, I am not an attorney or the mayor, but can we learn from our mistakes? What did we learn at the end? At the end of the day, when this thing is done, what have we learned so that we do not make the same mistake again? It seems as though, when you sit here and look through six (6) years of new stuff from the police, it seems that we have not learned anything. It is very frustrating. I hope this will be a time when we say, "Wow, we learned something. It is not going to happen again. Next time, we will handle it within three (3) months or six (6) months." I hope we learned something at the end of the day. It seems to me that we run around the hamster wheel and it is not fun. Thank you.

Council Chair Rapozo: Thank you. Roll call.

The motion to convene in Executive Session for ES-951 was then put, and carried by the following vote:

FOR EXECUTIVE SESSION:	Kagawa, Kaneshiro, Kawakami, Yukimura, Rapozo	TOTAL – 5,
AGAINST EXECUTIVE SESSION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Brun, Chock	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Five (5) ayes.

Council Chair Rapozo: With that, we will recess the regular session and go into Executive Session. I do not anticipate it being less than half an hour long. For the members of the audience, hang tight. We should be back in a half an hour or shortly thereafter.

There being no objections, the meeting recessed to convene in Executive Session at 8:55 a.m.

The meeting reconvened at 9:48 a.m., and proceeded as follows:

Council Chair Rapozo: Can we have the next item, please?

COMMUNICATIONS:

C 2018-133 Communication (05/23/2018) from the First Deputy County Attorney, requesting authorization to expend additional funds up to \$250,000.00 from the Claims and Judgments account to satisfy County of Kaua'i's self-insured retention limit concerning the litigation of Mark N. Begley vs. County of Kaua'i, et al., Civil No. CV16-00350, and related matters: Councilmember Kaneshiro moved to approve C 2018-133, seconded by Councilmember Yukimura.

Council Chair Rapozo: Any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2018-133 was then put, and carried by a vote of 5:0:2 (*Councilmember Brun and Councilmember Chock were excused*).

Council Chair Rapozo: Motion carried. Next item.

C 2018-142 Communication (02/12/2018) from the Chief of Police, requesting Council approval to apply for, accept, and expend Federal funds in the amount of \$503,103.00, from the recurring National Highway Traffic Safety Administration (NHTSA) grant to be used towards the following traffic related functions: data traffic records, distracted driver, occupant protection, road blocks, speed-related deterrence, youth deterrence, traffic services, purchase of equipment, supplies, training, travel expenses, media expenses, et cetera: Councilmember Kaneshiro moved to approve C 2018-142, seconded by Councilmember Kagawa.

Council Chair Rapozo: Thank you. Any discussion? Councilmember Yukimura.

Councilmember Yukimura: I am going to vote for this, but I would like to ask for follow-up information in terms of the amounts that are going to be expended for each of these areas, and also, if this is a recurring grant, past expenditure or breakdown for the last year.

Council Chair Rapozo: Okay. So will you be sending that over as a follow-up?

Councilmember Yukimura: Yes, as a follow-up.

Council Chair Rapozo: Okay. Thank you. Any other discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Councilmember Yukimura: The Kaua'i Police Department is here, maybe they can answer.

Council Chair Rapozo: Well, what you are asking about the past numbers and stuff, I am not sure if they are prepared to answer.

Councilmember Yukimura: I said two things: one, the breakdown of how the money is going to be used in this grant, and then the past usage last year.

Council Chair Rapozo: I will suspend the rules. KPD, can you come up?

Councilmember Yukimura: Thank you.

There being no objections, the rules were suspended.

ELLIOT KE, Acting Assistant Chief: Good morning Chair and Councilmembers. Elliot Ke, Kaua'i Police Department.

JON I. TAKAMURA, Lieutenant: Jon Takamura, Traffic Safety.

Councilmember Yukimura: Thank you, gentlemen. You came at the perfect time. We are looking at your grant request and I just wondered if you had a breakdown of the moneys that you are proposing to spend in these seven (7) areas.

Mr. Takamura: I can give you a funding amount breakdown for each.

Councilmember Yukimura: Okay.

Mr. Takamura: I will start with the data. Data basically is one hundred thirty-one thousand four hundred thirty-six dollars (\$131,436); distracted driver is fifty-eight thousand nine hundred five dollars (\$58,905); occupant protection is ninety-five thousand eleven dollars (\$95,011); traffic services is seventy-three thousand nine hundred twenty-eight dollars (\$73,928); speed is one hundred eight thousand eight hundred twenty-one dollars (\$108,821); youth-deterrent is twenty-three thousand nine hundred forty-three dollars (\$23,943); and roadblocks is one hundred thirty-four thousand eight hundred sixty-seven dollars (\$134,867).

Councilmember Yukimura: So the one we have as number seven is traffic services.

Mr. Takamura: Seven is youth deterrence.

Councilmember Yukimura: For youth deterrence, it is twenty-three thousand dollars (\$23,000)?

Mr. Takamura: Yes.

Councilmember Yukimura: Traffic services?

Mr. Takamura: Traffic services was...

Councilmember Yukimura: Seventy-three thousand dollars (\$73,000)?

Mr. Takamura: Seventy-three thousand two hundred ninety-eight dollars (\$73,298).

Councilmember Yukimura: Okay. So then the last one you gave us was the roadblock and what was that again?

Mr. Takamura: One hundred thirty-four thousand eight hundred sixty-seven dollars (\$134,867).

Councilmember Yukimura: Okay. On your youth deterrence, this funds "overtime for officers to conduct underage drunk alcohol enforcement and allows officers to participate in projects whereby they will engage in groups or gatherings around the island where underage drinking is suspected." I am just wondering how you define "deterrence." It seems like it is more enforcement than deterrence.

Mr. Takamura: It is both, because when they do address these congregations, they try and "deter" the use of alcohol and drugs. Obviously, if they do observe any violations, they take action.

Councilmember Yukimura: Yes. Is there any program effort to address root causes and actually convince the kids not to use alcohol?

Mr. Takamura: That is pretty much it, none of this funding is for education.

Councilmember Yukimura: None of the funding is for education?

Mr. Takamura: No.

Councilmember Yukimura: I am just recalling that there is a Positive Outreach Interventions (POI) program in Maui County and have you folks tried to learn how they are doing it? I have heard some really good things, and in fact, it was former Prosecutor Shaylene Iseri-Carvalho who really told me or made me aware of the program and I think she tried to institute it here. Have you folks analyzed it to see if it has any usefulness since it is being administered by the police department there?

Mr. Takamura: Well, back in the day when I was part of the Youth Services section, we were looking at POI. I do not think POI is around anymore in Maui.

Councilmember Yukimura: Even in Maui it is not?

Mr. Takamura: Yes, I believe they stopped the program due to funding. I attended the meetings.

Councilmember Yukimura: Due to funding?

Mr. Takamura: Yes, but that was more on the youth side when I was with Drug Abuse Resistance Education (DARE) and Gang Resistance Education and Training (GREAT).

Councilmember Yukimura: It seemed like it was extremely effective and the community was really appreciative of it.

Mr. Takamura: Yes.

Councilmember Yukimura: So it would be very sad if it was stopped due to funding. If it was stopped due to ineffectiveness then that makes...

Mr. Takamura: I do not know what actually happened, but this is a National Highway Traffic Safety Administration (NHTSA) federal grant, so it is basically more traffic concerns. Unlike DARE, POI, or GREAT, this is more focused for traffic. That is why it is not part of the shoulder tap or any other things.

Councilmember Yukimura: Okay. Thank you very much.

Council Chair Rapozo: Any other questions? If not, thank you very much. I will call the meeting back to order. Any further discussion? Councilmember Kagawa.

There being no objections, the meeting was called back to order, and proceeded as follows:

Councilmember Kagawa: I just want to thank KPD for their efforts in getting these grants. Unfortunately, a lot of the bad accidents that we have are youth underage drinking and it just leads to tragic accidents. We have not had one real recently, as I recall, but we do have those recurring issues. I have heard actually from some of the students that have gotten in trouble, like at Polihale, where KPD will hear of something and they will break it up and they will issue arrest; it is not major type of arrest, but they will have to go to drug court. So there is an education component because the parents have to attend with the child, and in some cases, a lot of times, they are just good students that are in the wrong place at the wrong time and it is a rude awakening that their child has gotten in trouble. But thanks to KPD, they cannot be there all of the time, but I think when they are, I think there is a big learning component that goes in. Just one time behind the wheel can not only lead to your own child's death, but it is the death of innocent other people that are passengers. I thank KPD for this program and for these grants and all the work that

they do in this area, because it is truly very important that we can continue to try and not only keep those drivers safe, but those innocent ones that are in other cars as well. Thank you.

Council Chair Rapozo: Anyone else? Seeing none, the motion is to approve.

The motion to approve C 2018-142 was then put, and carried by a vote of 5:0:2 (*Councilmember Brun and Councilmember Chock were excused*).

Council Chair Rapozo: Motion carried. Next item, please.

C 2018-143 Communication (06/06/2018) from the Executive on Transportation, requesting Council approval to amend the amount authorized to receive and expend, and to indemnify the Federal Transit Administration (FTA), for the Federal Fiscal Year 2012 Federal Transit Administration Section 5309 Annual Apportionment provided to the County of Kaua'i to support public transit capital expenses, as the initial request of \$1,240,000.00 was approved by the Council through C 2012-112, after which the Transportation Agency was notified that an additional \$287,591.00 was made available as part of the same allocation, resulting in a total grant award of \$1,527,591.00: Councilmember Yukimura moved to approve C 2018-143, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Thank you. Any discussion? Councilmember Kagawa.

Councilmember Kagawa: I just have a question for Celia real fast.

Council Chair Rapozo: Go ahead. I will suspend the rules.

Councilmember Kagawa: Celia, is this recurring? It looks like it is more than the recurring, right? I just wanted to confirm that.

There being no objections, the rules were suspended.

CELIA M. MAHIKOA, Executive on Transportation: *Aloha.* Good morning. Celia Mahikoa, Executive with the County Transportation Agency. Thank you for asking about that. They call them "Federal Transit Administration Section 5339 Grants" and we do receive them annually; however, this one allocation was an extra amount that was unable to be expended by the Big Island transit operator and therefore, the State Department of Transportation (HDOT), who our funds pass through, offered it to us, if we were able to utilize it for bus purchases, then we were able to take it and use it for that purpose. The overall 5339 award is typically recurring for about five hundred thousand dollars (\$500,000) a year, but this was a special allocation that was provided at that time for an additional amount, and then we also have the benefit of these added funds that we are able utilize for purchasing two (2) additional buses.

Councilmember Kagawa: So we are planning to purchase the two (2) additional?

Ms. Mahikoa: Actually, because these funds are rather...I hate to say "old," but it was an award back in 2012, HDOT has asked us if we were able to expend it immediately, at which point, because we had a bus purchase in the works, we are able to utilize these funds upon approval for that purpose, which will leave us with our current grant's additional funds available to use in the upcoming fiscal year to purchase two (2) additional buses. That is basically the end result, is it is giving us the ability to purchase two (2) additional buses.

Councilmember Kagawa: And save us money that we would have spent?

Ms. Mahikoa: Right, we would have had to find other resources and/or just continue to short our fleet and have to operate into much more heavily needs for repairing as we go on. This is definitely benefitting our operation here significantly.

Councilmember Kagawa: Thank you. We have had a lot of bad news with the lawsuits and all of that and now we have some cost savings by utilizing federal moneys.

Ms. Mahikoa: Thank you.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: Thank you. That is good news, Celia, that we have gotten another five hundred thousand dollars (\$500,000) or so. Congratulations for being ready and able to use the money. This weekend, we saw model electric buses and I think the community was very excited about it. When would we be able to purchase electric buses? These moneys are not being used for that, right?

Ms. Mahikoa: No, because we have to continue with our existing service while taking on new initiatives. So our current allocation, 5339 funds and the County General Fund match that we have been provided are used to continue our fleet replacements as scheduled in our existing fleet, and because of the higher price for these electric vehicles, we need to look for special allocations for which we will be coming in requesting the approval for a grant application for the Federal Transit Administration's...they call it a "no low grant" like a "no and low emissions" vehicle grant for the purchase of three (3) electric vehicles. So that should be coming in this week is our goal, is to get that approval into Council this week.

Councilmember Yukimura: This week?

Ms. Mahikoa: Yes.

Councilmember Yukimura: That is applying for these grants that would allow us to purchase electric buses?

Ms. Mahikoa: So it is a coordinated effort statewide that the State Department of Transportation has assembled the application for, so Big Island, Maui, and Kaua'i will be going in together requesting funds for electric vehicles or hoping for an award.

Councilmember Yukimura: That is excellent and very fast action, so that is exciting to hear.

Ms. Mahikoa: Thank you.

Council Chair Rapozo: Anyone else? If not, thank you very much.

Ms. Mahikoa: Thank you.

Council Chair Rapozo: Any public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Any further discussion? The motion is to approve.

The motion to approve C 2018-143 was then put, and carried by a vote of 5:0:2 (*Councilmember Brun and Councilmember Chock were excused*).

Council Chair Rapozo: Can we go to Claims next and finish the regular agenda items before we take up C 2018-144?

Ms. Fountain-Tanigawa: Sure. We are on page 3, Claims.

CLAIMS:

C 2018-145 Communication (06/04/2018) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Mark Tripoli, for damage to his vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

C 2018-146 Communication (06/07/2018) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Tina Miyoshi, for damages to her vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

C 2018-147 Communication (06/12/2018) from the County Clerk, transmitting a claim filed against the County of Kaua'i by EAN Holdings, for damage to their vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

Councilmember Yukimura moved to refer C 2018-145, C 2018-146, and C 2018-147 to the Office of the County Attorney for disposition and/or report back to the Council, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Any public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Discussion? Councilmember Kagawa.

Councilmember Kagawa: I keep seeing these and every time I see these, I ask for summaries at some point of what are the damages, the cause of all of those damages; are a lot of them related to County vehicles banging private vehicles? Is it simply just big trucks flying rocks and cracking windshields? I think at some point, when you see three (3) every two (2) weeks that show up, a lot of it has to do with things we can improve on and I hope the Administration is trying to take corrective action when they can, but I think at some point, if it keeps coming up, three (3) at a time, then that means that basically we are not doing anything if the numbers just keep recurring, unless it is just truly an accident that cannot be prevented. Sometimes you have employees doing it again and again, then maybe we have to take the keys away from that guy and let the other guy drive. Hopefully at some point, I can get that summary that I have been asking to see in totality so we can be transparent to the public as well, as far as, "Okay, these are all of the accidents and the reasons. These are the corrective actions. Okay, we took away the key from this guy. We put a better mud flap on this truck." It is just so that the public knows that we are having all of these claims and we are actually doing something about it. Thank you.

Council Chair Rapozo: Thank you. Any other comments?

The motion to refer C 2018-145, C 2018-146, and C 2018-147 to the Office of the County Attorney for disposition and/or report back to the Council was then put, and carried by a vote of 5:0:2 (*Councilmember Brun and Councilmember Chock were excused*).

Council Chair Rapozo: Next item.

RESOLUTION:

Resolution No. 2018-24 – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE SALARY COMMISSION (*Kenneth N. Rainforth*): Councilmember Yukimura moved for adoption of Resolution No. 2018-24, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Roll call.

The motion for adoption of Resolution No. 2018-24 was then put, and carried by the following vote:

FOR ADOPTION:	Kagawa, Kaneshiro, Kawakami, Yukimura, Rapozo	TOTAL – 5,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Brun, Chock	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Five (5) ayes.

Council Chair Rapozo: Thank you. Next item.

Ms. Fountain-Tanigawa: This brings us back to page number 2, C 2018-144.

There being no objections, C 2018-144 was taken out of order.

C 2018-144 Communication (06/07/2018) from Tyler Kimura, Partner, Spire Hawai'i LLP, transmitting for Council information and discussion, the Follow-Up Audit Of County Hiring Practices: Councilmember Yukimura moved to receive C 2018-144 for the record, seconded by Councilmember Kagawa.

Council Chair Rapozo: Thank you. With that, I will suspend the rules. Thank you for coming over today. If you could just start by introducing yourself for our captioner and you may begin your presentation. I would ask that we just hold-off on the questions until after the presentation is done.

There being no objections, the rules were suspended.

TYLER KIMURA, Spire Hawai'i LLP: Thank you. Good morning, Chair and Members of the Council. Thank you very much for the opportunity to present today. My name is Tyler Kimura, partner at Spire Hawai'i. I have a brief presentation for you concerning our work and our findings related to the Follow-Up Audit of the County Hiring Practices. After that, I would be happy to answer any questions that you may have.

So a little bit of background about this follow-up audit—this came about as a follow-up audit of the 2015 Hiring Practice Audit, which we conducted during 2015 and 2016 over the County's hiring practices from January 1, 2009 through the end of 2013. The findings in general included non-compliance with Hawai'i Revised Statutes (HRS) and County policies, a lack of supporting documentation, and insufficient controls surrounding hiring decisions. We conducted a follow-up audit to this 2015 Hiring Audit, pursuant to Generally Accepted Government Auditing Standards (GAGAS). In general, a follow-up audit determines the implementation status of the recommendations from the original audit. So for example, whether that recommendation was implemented, partially implemented, or not implemented. The scope of this follow-up audit was driven by the findings and recommendations from the 2015 Hiring Audit, which were to verify whether the Department of Human Resources (DHR) reassessed its current procedures and controls to ensure compliance with HRS and County policy; verify whether DHR maintained the appropriate

involvement with personnel action and procedures, including monitoring the appointing authorities; verify whether DHR maintained an audit trail of sufficient documentation to support all personnel activity during the employee's career with the County; and to verify whether DHR has ensured sufficient controls and procedures have been put in place for all types of personnel actions, in particular, for those that allow civil service requirements to be bypassed.

So the methodology we used for our follow-up audit started when we issued a written questionnaire to DHR to obtain information on progress made since the 2015 Hiring Audit to help to determine whether recommendations were implemented. So there was a lot of back and forth correspondence between us and DHR on changes that they have implemented. We also tested personnel activity of the largest County departments, which is the Department of Public Works (DPW) and the Department of Parks & Recreation, for the one-year period January 1, 2017 to the end of 2017. We issued questionnaires to DPW and Parks to obtain personnel activity during the period and sampled civil service hires and reallocations based on their responses. We tested for things, such as the presence of documentation, appropriate approvals, et cetera.

In determining whether or not we felt that a recommendation was implemented, partially implemented, or not implemented, these are the criteria that we used here. I am not going to go over the findings from our follow-up audit and the way that this is laid out is these are again driven by the findings and recommendations from the 2015 audit. The 2015 audit had three (3) findings, which had eight (8) related recommendations. The recommendations that you see listed here are the first recommendations related to the first finding, which was basically non-compliance with policy and HRS. Just a little bit of background, it is important to remember that DHR was a newly-created entity when the 2015 audit took place, so various processes and procedures were still being reworked at that time. Now, when we looked at what has happened in the three-year period since then, DHR provided us with a number of examples of changes that they have made to their processes and they are all listed and discussed in our full report. We commend them for these efforts, but we still see opportunities for improvement by taking a systematic approach to reviewing and revising all County policies. For example, the County Recruitment Manual has been in draft form since the last audit and policies such as the Rules of the Director and Internal Department Competitive Recruitment Policy, have not been updated with changes made by DHR. So while a lot of changes have been made and DHR does tackle a lot of issues on a day-to-day basis, they can improve the overall functionality of their department by proactively reviewing how the entire system works. That is development of knowledge, updated policies, and continued training for all staff in DHR and anyone involved in hiring.

Another way to look at it is, "What is the strategic plan of DHR?" Are they comprehensively looking at what is their role and function within the County itself? So to that end, we decided that while the changes have been made, but the fact that policies have not been finalized, we determined that our first recommendation was partially implemented and the second recommendation looking at internal policies and basically finalizing them was not implemented.

Related to recommendation number 3, during the 2015 audit, we found that there were several functions that were being performed at the department-level that

DHR did not review or participate in, such as physical examinations. As such, we recommended that DHR should not completely remove itself from any personnel action. We found that changes instituted by DHR addressed this recommendation and therefore, designated it as “implemented.”

Finding 2 relates to really the presence of supporting documentation for hiring activity. So during the 2015 audit, we found sixty-four (64) instances of missing documentation, such as vacancy request approvals, physical screenings, and final selection approvals. In this follow-up audit, we sampled civil service hires and reallocations from Parks and DPW during 2017 and noted that all of the documentation that we requested was provided to us and therefore concluded that recommendations number 5 and 6 were implemented. For recommendation number 4, we noted that the documentation over the justification for certain reallocations to Excluded Managerial (EM) positions could be improved, so we determined this to be partially implemented. We will discuss EMs more in our next finding.

For recommendation number 7, DHR has consulted with the County Attorney, but a final policy has yet to be developed. DHR does utilize the State of Hawai'i's Department of Accounting and General Services Retention policy, so we determined that the recommendation has been partially implemented while we wait for the final County policy to be finalized.

The last finding relates to just ensuring that sufficient controls and procedures are in place for all types of personnel actions, and related to this, DHR did provide a number of examples of improved policies and procedures over unskilled labor and exempt hires, which are listed in our report. However, during our testing of reallocations, we found that the documentation over why positions were changed from bargaining unit civil service positions to EM civil service positions was lacking. We felt that this creates risk to the County because EM positions are often seen as favorable because of higher salary ranges and the justification or instructions as to when and why to designate a position as EM are subjective. While there may be some documentation maintained in E-mail correspondence, we recommend that policies be put in place over what needs to be documented to justify the reallocation. The documentation and the record of classification request and action forms in the personnel files were inconsistent or lacking. One of the forms included a background as to why the position was being reallocated to an EM, which we thought was sufficient and provided enough background and justification as to why; however, other forms only said, for example, “reallocating position” or “changes in duties and responsibilities.” Basically, the more documentation that the County can maintain over justifications for reallocations or any personnel action for that matter, the better for the County.

We also inquired about the Vacancy Review Committee (VRC) upon reading Council minutes about its financial impact for the County and the savings that it has created. We understand that it was created to review department requisitions to fill vacancies in an effort to reduce the size of government and re-describe vacant positions to create efficiencies. This included possibly re-describing remaining positions to absorb duties of eliminated positions. The VRC was composed of a member of the Civil Service Commission, the DHR Director, the Assistant Chief Procurement Officer (ACPO), and the Director of Finance. We felt that the composition of the VRC could present potential conflicts of interest if any grievances

resulting from the VRC's actions were to be heard by the department heads on the VRC or if it ultimately rose to the Civil Service Commission. This is somewhat mitigated by the fact that the VRC rarely meets anymore, but we just wanted to raise the issue that should this or other similar committees be involved in any personnel actions that the County should continually evaluate the potential risks associated with any actual potential or perceived conflicts of interest.

In conclusion, I wanted to just highlight what we felt were the takeaways from this follow-up audit and it is that DHR has made a lot of progress on especially being a new department in terms of revamping their policies and procedures and tackling a lot of issues. But we feel that they can still improve by focusing on systematic policies and guidance for the County. Again, what is the strategic plan for DHR for maintaining a process to build and retain knowledge, to publish comprehensive policies and procedures, and to create a solid training program for its personnel, as well as all personnel in the County? So part of this, we believe that DHR should regularly and systematically review existing policies to identify areas where policies are needed or where policy changes are required. This could include creating a schedule that has certain policies up for review every few years or as changes are made, either at the federal-level or state-level. Related to EMs, DHR should consider establishing a step-by-step checklist for the EM hiring and reallocation process that should include a description of the supporting documentation that would be required over those types of reallocations. So that concludes our prepared remarks, but I would be happy to take any questions that you may have.

(Councilmember Brun was noted as present.)

Council Chair Rapozo: Any questions? Councilmember Kagawa.

Councilmember Kagawa: Tyler, thank you for your report and summary. It looks like one of the concerns is the last one you were talking about, the EMs. Did you do an analysis as far as...we could do that as well, but if you go back...how much EMs are we talking about that are in question? How many EM movements, maybe since the Carvalho Administration took office, how many EMs did we have then and how much do we have now? It seems like...

Mr. Kimura: We did not do an analysis over the amount of EMs over time, but I believe that there are about twenty-seven (27) EMs in this current fiscal year.

Councilmember Kagawa: About twenty-seven (27)?

Mr. Kimura: Yes, not including Fire and Police.

Council Chair Rapozo: I am having Scott put that chart up now, the number of EMs. Any other questions? Councilmember Yukimura.

Councilmember Yukimura: First, a procedural question—usually with audits, we have the agency response; are we having that?

Council Chair Rapozo: It is in there.

Councilmember Yukimura: Okay. I have not seen that.

Council Chair Rapozo: It is in the audit. You were provided a copy of the audit with the responses.

Councilmember Yukimura: Okay. Basically, on the issue of EMs, you are saying that the reallocation from collective bargaining to the EM positions or from rank and file positions to an EM, which is excluded, is not adequately documented or has not been?

Mr. Kimura: Right.

Councilmember Yukimura: That is based on how many samples?

Mr. Kimura: Within our sample of...there must have been about sixteen (16) or so reallocations. There were four (4) EMs within that sample, and for only one (1) of the four (4), we thought that the description of the justification of why it was...

Councilmember Yukimura: One (1) out of sixteen (16)?

Mr. Kimura: Sorry, one (1) out of four (4) related to EMs specifically. One of the positions was vacant at the time, so it did not really require a full justification, but the two (2) that were not vacant, really the only descriptions that were present was "reallocating position" or "change in duties and responsibilities" and we were looking for a more justification as to why the EM reallocation was done.

Councilmember Yukimura: Okay. You did acknowledge, and I appreciate that you did, the fact that the present HR Department is fairly new, so they have been really trying to put the department together.

Mr. Kimura: Yes.

Councilmember Yukimura: But your vision for them in its totality is that they need to have comprehensive policies and procedures in place and it should be used. Is that their goal?

Mr. Kimura: I believe it is part of their goal. They are working on the County Recruitment Manual, but that has been in draft form since our last audit in 2015. I believe they are trying to get it done this year. But I think we do see that they are tackling a lot of different issues, but we want to see what is the overall long-term vision of the department, what are they aiming to do for the County, and that includes making sure that their policies are kept up to date and regularly reviewed in the future so that they can always stay on top of any changes.

Councilmember Yukimura: Do you have a department anywhere in the State which models that?

Mr. Kimura: I cannot give you a specific...

Councilmember Yukimura: It would be more in government...I guess the private sector would be fine, too, and more specifically governmental.

Mr. Kimura: I think any department, whether they are governmental or in the private industry should take a look at not just a day-to-day "putting out fires," but taking a look at what value and impact they have for the County as a whole and I think part of DHR is to make sure that they are looking after the rights of the employees and making sure that policies and procedures are in place to reduce risk for the County overall and that involves any personnel action.

Councilmember Yukimura: Okay. I have a sense that our department has been trying to move towards that in terms of doing some pretty strategic, if you will, or major changes and shifts towards that end. I was just wondering if you have an example anywhere in the State, a department that has kind of arrived.

Mr. Kimura: I do not have a shining example for you at this point. I think it is something that all departments strive to do or some do more than others. To the extent that HR is moving in that direction, we commend them for doing so and we encourage them to continue to do that. We just wanted to point out that it is important that they continue to head and that they are a very important part of the County and its operations.

Councilmember Yukimura: They are an extremely important part, you are right. Thank you.

Council Chair Rapozo: I want to clarify what Tyler said, he said when the audit was done in 2015, the original audit, it was understandable that it was a new department. That statement was not made for this current audit. It is my perception that a lot of time has passed since the audit and the recommendations were done, so I do not want to mischaracterize what he said. His comments were for the initial audit, not the follow-up audit.

Councilmember Yukimura: How old is the new department? How long have they been in existence?

Mr. Kimura: I do not have the exact date, but about...

Councilmember Yukimura: About three (3) years, they were formed around 2015...

Councilmember Yukimura: Okay...

Council Chair Rapozo: No, it was not three (3) years...they were the Department of Personnel Services before DHR.

Mr. Kimura: Four (4)?

Council Chair Rapozo: It was born in 2013 or 2014.

Councilmember Yukimura: Well, we passed the resolution or whatever it was that made it from a personnel department to Human Resources.

Council Chair Rapozo: I do not recall, but it has been a while.

Councilmember Yukimura: It took a while to really pull all the different personnel into the department and really start...I do not know when they got the organization in place with all the different positions and actually fill them. Anybody know? Maybe Janine can tell us.

Council Chair Rapozo: Any other questions? Councilmember Kawakami.

Councilmember Kawakami: Thank you, Mr. Chair. My questions are in regards to the Department of Human Resources' response to the audit. There was one response basically saying that the reports were present...you had stated that the reports were present and they were sufficient and that was not included in the draft audit. Secondly, I think there was some confusion or perhaps contradiction as far as checks and balances. I think Human Resources asked if the payroll action forms signed by department heads would be sufficient and you had agreed that it was sufficient and so it contradicts that in the report as well. There are a few other points: one, an approval of an EM reallocation one or two minutes after the Mayor's approval and there was a response that it was approved at 3:45 a.m., that they are not working by a set schedule, they work around the clock. I would just like to hear your response to their response.

Mr. Kimura: Sure.

Councilmember Kawakami: Thank you.

Mr. Kimura: Regarding the first comment about the existence of documentation, we did update some language in the report. Basically, we saw that all of the documentation was there and that is why we stated that recommendations number 5 and 6 were fully implemented because that was part of our testing to see whether or not appropriate documentation existed and that an audit trail of documentation was appropriate, and that is what we found. So to that end, we felt that we did address the fact that we were provided all of the documentation, so we did clarify and revise the language in the sense that to specifically state that all of the documentation that we requested was provided. Regarding the personnel action form, that was clarified. Basically, the draft report already reflects what was clarified in our exit meeting with DHR and we initially had said that recommendation number 3 was partially implemented because we needed further information over how much DHR was taking on in-house and whether or not they were conferring with the departments and whoever was requesting the personnel action. Once we were able to get that clarification that they were appropriately discussing any activity with the departments, we updated the status of the recommendation to implement it and that is and was reflected in the draft report itself. So that discussion in their response was more bringing up the fact that a change was made between the exit meeting and the draft report going out. Lastly, the comments about the approval process was just something that we thought to be a little unusual and not expected in terms of when approvals are made. We did not say that it was inappropriate or wrong, it was just something that was not expected, it was unusual due to the time the approval was

made, so we had included that in our report and to the extent that the work is done at all times; that is great for the County, in our eyes that was unusual.

Councilmember Kawakami: I think there was a correspondence by our Mayor asking the question as to why the department was not allowed to respond to the findings before the draft came out. I think that is the discussion that happened. Is it customary practice to release the draft before the auditee can respond to some of the findings?

Mr. Kimura: It is customary practice to issue a draft report to the auditee at the same time as anyone charged with governance. That is how our prior four (4), I believe, performance audits for the County has been done. I guess there was some misunderstanding that DHR had between the exit interview and when that draft would be issued, DHR wanted to be able to do a pre-read of that draft report. I believe that caused some of the frustration in the response. It is not customary for any auditee to pre-read a draft report in this form prior to it being released as the draft. Once the draft is released, the auditee is able to then respond to the draft and issue a formal response. So even in our original hiring audit, which was also attached to the payroll audit, the same process was followed and DHR, at the time, provided information to us after that draft audit was issued, and we incorporated and took that into consideration and incorporated the findings in the final report.

Councilmember Kawakami: I would just like to say "thank you" for a very well-done, in-depth audit. Oftentimes, people view audits negatively, but it is really just to make us become a more efficient operation. It clearly outlines where you feel recommendations should be implemented, so we really appreciate that and it is going to make us a better government. Thank you.

Mr. Kimura: Thank you.

Council Chair Rapozo: Any other questions? First of all, Tyler, I put that up on the screen, but that chart that I had included the police and fire as well. I think the number, as we can see, did increase over the last...especially in this current fiscal year. I have two (2) real concerns: one was the EM process and I think you highlighted it in your audit, and in the draft, I can attest that all the audits that ever come through are done the same way. The draft report comes out and that is not public to anyone; it is a confidential document until the auditee has an opportunity to respond, and then their comments or responses will be incorporated into the final report. But one of my bigger concerns, and this is what I have heard, not only from standing employees over the years, but also from members of the public who apparently these employees talk to that there are occasions where positions are...basically, people are allowed to get the experience necessary to qualify for a higher-paying position, and you highlighted here on page 17 in the second paragraph and it says, "The reallocation process in example 2, which was changing of an SR-24 to an EM3 with a twenty-seven percent (27%) salary increase and the new hire did not meet the minimum qualifications related to the administrative experience of the EM3, so the position was changed to SR-24. Once the new hire met the administrative experience requirements of an EM3 by performing the administrative-level provided at the SR-24, the position was reallocated back to an EM3 and the record of classification request and action form only provided the

following reason for the request: 'reallocating position.' " That was it, that was the explanation. My concern is that when I think you identified that as well, it says, "The reallocation process..." in that example that I just read above, "...appears to be for the purpose of allowing the employee to gain the necessary administrative experience documentation to establish a valid purpose for the reallocation could avoid the action being seen as preferential treatment by the DHR and the respected department head subjecting the County to criticism or risk. Was that just in that one example that you saw?

Mr. Kimura: I think that is highlighted in that example and I think that is just kind of the crux of the risk that we found. We are not commenting on whether or not that is appropriate or inappropriate, but basically, it needs to be justified by the County, if anyone files a grievance or a complaint over that process, the more documentation that exists as to why that occurred would be better for the County to mitigate that risk. So part of this audit was not to investigate every justification for every EM in the County; these EMs are part of our scope or part of our sample and we just took a look at the documentation that existed over these EMs.

Council Chair Rapozo: I noticed there are a couple of examples, reallocating positions is one of them, changes in duties or responsibility was another one. I am concerned that we are not keeping that paper trail and that at some point, we will get sued and we are not going to be able to justify how we did these things. I was trying to find it, but I remember reading at one point where some of these decisions were done verbally and nothing was in writing and it was basically discussed verbally and then the action was taken with absolutely no paper trail. I think that is concerning to me, simply because in this litigious society that we live in today, especially in personnel and employee issues, I want to make sure that we are covered and that when we go back, we can justify that position. The other concern is the Vacancy Review Committee and you highlighted it and it is something that I just never ever considered, but you brought it up and I tend to agree with what you are saying that, "While we did not analyze the Vacancy Review Committee's decisions, the underlying risk is ensuring that the VRC is composed of administrators who will provide objective insight on the vacancy decisions by appropriately balancing the needs of the departments with the desire to reduce personnel costs. The DHR failed to recognize that the membership of the VRC created a situation where the County could be faced with significant liability. The fact that a member of the Civil Service Commission, the DHR Director, the ACPO, and the Director of Finance served and participated on the VRC is of great concern. When a civil service employee of the County feels that a violation occurred with regard to the rights of an employee, they are entitled pursuant to HRS, Chapter 76, to file an internal complaint. This internal complaint process involves the respective department head, which could be one of the members of the VRC, as well as the DHR Director," which is a member of the VRC. "If the internal complaint is not resolved to the satisfaction of the employee. The employee can appeal to the Civil Service Commission." A commissioner is a member of the VRC. I think that is something that we need to definitely look at, because a majority of key personnel Department Heads sit on that committee and are making the decision on whether or not positions are going to be filled. What is the recommendation, to not have a VRC or to have it made up of other members?

Mr. Kimura: I think it has somewhat been mitigated by the fact that they rarely convene anymore. I think they met at the time of our fieldwork, once in fiscal year 2018, but we did not evaluate every single requisition that they reviewed and the decision that they ultimately made. We just want to raise the fact that these risks do exist and just so that the County is aware that the composition of committees like this can be seen as having some kind of conflict and it should be appropriately vetted, just to make sure that everyone is aware of the pros and cons of creating committees like this and what could potentially go wrong from the County's perspective. I think that is what we were really trying to highlight in this report.

Council Chair Rapozo: My last question, finding 1...I am sorry...on your first slide of the findings, number 2 recommendation—again, these were recommendations that were done in the last audit. It says, “Internal policy should be reviewed for best practices clearly written, regularly communicated to DHR staff, and held to the same standard of authority as HRS.” I know we had some concerns back in the last audit regarding compliance with the HRS. Did you find any activity in this audit that would be of concern, that in fact, it might not be in compliance with HRS?

Mr. Kimura: No.

Council Chair Rapozo: So we are in compliance with HRS?

Mr. Kimura: Yes, no instances of that.

Council Chair Rapozo: Thank you. Any other questions for Tyler?
None? Okay. Thank you.

Mr. Kimura: Thank you.

Council Chair Rapozo: Janine.

JANINE M.Z. RAPOZO, Director of Human Resources: Good morning. Janine Rapozo, Director of Human Resources. With me, I have Jill Niitani, HR Manager. First of all, similar to you, we would like to thank the auditors for doing this follow-up audit for us. We have always welcomed audits. Obviously, there have been differences of opinions and miscommunications throughout this process. We do not disagree that our office still has a lot of work to do. However, what we do disagree with is some of the findings and that is the reason for our response that we have articulated, particularly with the Vacancy Review Committee and the EM process, which I think is in our response. During our exit discussion, we were hopeful because we had some concerns on questions that were not answered or on explanations that we had made, but was still going to be part of the audit, we had asked for that extra courtesy to review the draft before it came out. Unfortunately, that did not occur, so we basically went ahead and provided the response we did. I guess we do agree with the final slide with the opportunities that are there for improvement that they still exist and we do continue to do that on a daily basis. So moving forward, I think that is where we are going and I think as Tyler had said, that is basically what the intent of the audit was and we recognize that. We are working as hard as we can on getting things done. Yes, we do have to put out fires a lot of times, and unfortunately, we do

have to put the necessary time into doing those policies. So we are re-strategizing and working towards getting those things done. If you folks have any questions directly on anything that we said or what the audit said, then we are here to answer that.

Council Chair Rapozo: What I am hearing is that you do agree as far as the policies and establishing those written policies and getting that done as soon as possible, and that is what you are working on right now?

Ms. Rapozo: Yes.

Council Chair Rapozo: As it relates to the...I think you heard my two (2) concerns...the VRC...I did read your response, but as far as the documentation on these movements, because the fact that we have not gotten sued does not mean that a lot of employees are not feeling slighted and they are feeling it is not fair and that it is favoritism or whatever that we hear. But what is your position on clearly identifying the reason for the change in the position from a civil service SR rating to an EM? Do you believe or agree that in fact that should be clearly justified and that change in duties is really insufficient or do you believe that is sufficient?

Ms. Rapozo: Usually, the class itself will have two (2) different classes to show what the difference in duties assigned are going to be, but I do not disagree and I think we talked to the auditors about it, that we need to be more robust in what we put into the actual change into the position as to why would warrant a difference in SR rating or EM rating. There is a policy on classification whether it is for salary rating or whether it is for bargaining unit type of rating versus an EM. We do have those policies. I think we attached it as part of our response. We will just need to...what he has articulated in his last slide, which we did not get earlier, was yes, do a checklist and go, "Does it meet this? Does it meet that?" Absolutely, if we had those types of recommendations, we would have been fine, but we did not get that. We see it is here now, so I would actually like to have a copy of that PowerPoint that he just presented because that was not something that we had. I do agree that is something that we should put in there so that it clearly can be justified. There is a lot of back and forth with the departments, and yes, we have failed to actually memorialize that into the actual requisition or into the request that did that. Other than that, I think we show that the two (2) classes are different, but if anything more to show exactly why that occurred, I think that is something we should include into the documentation.

Council Chair Rapozo: Thank you. I think that just helps you or the County in the event that we get legally challenged.

Ms. Rapozo: Absolutely.

Council Chair Rapozo: How in the world would you remember three (3) years ago just by reading that change of duty? Thank you. Councilmember Kagawa.

Councilmember Kagawa: Janine, just to help me a little bit, do we have best practices, like I think the slide showed fifty-one (51) EMs—do we have best practices to follow, maybe like a County of our size and similarities, maybe in

comparison to Big Island or Maui, how we stack up? Do the numbers of EMs that we have fall in line with our counterparts on other counties?

Ms. Rapozo: If the position is the same, for example, an Assistant Chief in the Police Department, they will be classified the same throughout the State, so it would be an EM. So anytime we do any classification action, whether it is for an EM or whether it is an SR-20 or SR-24, when we decide where it should go, all of the different counties, we send that out to everybody. They do look at it and they make comments because they know that if we do something that is not in line with the entire classification process, they are going to be affected because their employees will come to them and say, "Hey, Kaua'i County did this; how come we cannot do that?" That is kind of our check and balance with the rest of the State.

Councilmember Kagawa: Okay. I guess the ones that I am more concerned about are the ones I see in the Department of Public Works where it seems that they have grown a little bit on the EMs. I guess I would feel more comfortable if I saw a comparison of the other counties or maybe other municipalities in the nation of similar size. The highest SRs and having the right size number of EMs above it...I am wondering if there is a guideline or do we do as we see fit?

Ms. Rapozo: We could probably do it statewide. I am not sure with other jurisdictions whether they use the same type of classification system, but we could check.

Councilmember Kagawa: Okay. Thanks.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: I first want to really acknowledge the both of you as the leaders of the HR Department. I think you had a herculean job when you started, things in very much disarray, and you have been pulling it together and it has taken some time. I witnessed, I believe, an increase professionalization of the department and that has been really encouraging because it is a very important department and affects everything we do in the County. I wanted to ask, starting with the EM issue—I think having the classifications of civil service positions in EM positions really have to be uniformed statewide. I think the issue is the application to a specific case, right? So you have somebody in a civil service position and how you determine whether it meets the classification, so I am not recalling exactly what that checklist is, but would that be what a checklist would do? Does this person, in its job, do such and such that throws it into the EM classification? Is that how you envision a checklist working?

Ms. Rapozo: Yes. I am trying to find the...on the audit report, I think it is labeled page number 48 because it is an attachment.

Councilmember Yukimura: I see it. "Application of Criteria."

Ms. Rapozo: Yes. Then it meets one of the following criteria, so those are the kinds of things that we would probably include in the checklist in order to make sure that it is documented and filed with the position.

Councilmember Yukimura: I see. So criteria for position coverage under excluded managerial compensation plan and then I think on page 48, "meets one of the following criteria: is a division head or assistant division head; is at or near the top of an ongoing complex agency or major program; and formulates or determines policy for the agency or program," et cetera, that you would form that into a checklist for department heads who are reviewing an applicant or a County worker for the EM class.

Ms. Rapozo: It would probably be with our classification staff. When the request comes in, they would look at whether or not it qualifies to become an EM.

Councilmember Yukimura: I see. Okay. By having such a checklist, I guess that would increase the documentation.

Ms. Rapozo: Correct and justify the reasons why it went that way or did not go that way.

Councilmember Yukimura: Right. Okay. On the Vacancy Review Committee, I think you called out the use of the Big Island committee and it seems like there are different functions. What do you see and understand our VRC's function?

Ms. Rapozo: So the Vacancy Review Committee was actually an initiative that was done by the Mayor to try to look at positions and try to down-size government or try to re-describe or re-engineer positions, rather than create new positions so that we could try to look at our budget. So what he did was he looked at people that were on his budget team and those are the people that basically made up the Vacancy Review Committee. We are looking at vacant positions, positions that no one is in, whether or not we can use that for something that is more pressing for the department or whether or not it needs to be filled at all or whether we should fill it because it is very pressing and they need to have that filled. What we were concerned about is the auditors, and they still have in the report, have compared that to the Big Island selection committee. If you look at their role, they actually was part of a selection. They were actually saying how the recruitment should be done, whether it was going to be internal, open, or anything like that and who was going to be selected for the position.

Councilmember Yukimura: So they were actually applicants that they helped to review and determine whether they would fit in?

Ms. Rapozo: Whether they would be selected.

Councilmember Yukimura: To fill a vacant position?

Ms. Rapozo: Yes. What we explained to the auditors is that we were not looking at people, we were looking at positions and only looking at whether management wants to keep the position filled, wants to now change it to something else, or what they want to do. That was kind of our concern as to why that was included here.

Councilmember Yukimura: Maybe we can call the consultant back up, but I am trying to understand the vulnerability of the process and what the auditors are recommending to prevent.

Ms. Rapozo: Just from what I read, it looks like they felt there would be a conflict should an employee file an internal complaint saying that we should not have gotten rid of that position because we have now eliminated their right to a promotion or anything like that. We disagree with that analysis because we think this is something that is management's right. We have very few management rights and these are some of the things that we would like to maintain. If that were the case, the Council has also, through the budget process, eliminated positions. I do not think employees would have that right to come back and say that is something that you cannot do because you are getting rid of my promotion right. That is kind of what I read, which we disagreed with.

Councilmember Yukimura: Right. I agree that there is no right to an upper position if management agrees to remove them. I think the other vulnerability is an existing employee who now has more work because the vacant position was eliminated.

Ms. Rapozo: Well, management still has the right to assign duties, so I would say whether it is more work or whether it is taking something away, putting something there, or you are not doing that all; that is something that management would be looking at.

Councilmember Yukimura: The employee would have a right then if there are additional duties to ask for a reallocation if the duties go far beyond the scope of their existing position.

Ms. Rapozo: Of the class, correct.

Councilmember Yukimura: So there would be that. Okay. I think one of the issues that we have experienced—we, the County, the Council—is that a position is removed and then we have realized that we really actually need the position and I think there was this Parks Permit Clerk. So that is an issue, but it is more a budgetary management decision than a personnel decision maybe.

Ms. Rapozo: As far as whether the position should remain?

Councilmember Yukimura: Yes.

Ms. Rapozo: I think it is the department's call as far as whether or not they want to keep that position as-is, use it for something else, come to Council and ask for another position. Those are things that the department needs to...

Councilmember Yukimura: I think it is what kind of input is needed to be sure that the decision made by the Vacancy Review Committee is a sound one. The fact that we had to put an employee back meant that somehow we did not think about all of the things in the first decision.

Ms. Rapozo: First of all, let me clarify that the Vacancy Review Committee does not make the decision; it is just a recommendation to the Mayor. So the Mayor makes the final decision and he has gone against the Vacancy Review Committee on certain instances.

Councilmember Yukimura: Okay.

Ms. Rapozo: As far as that particular position, I think that the reason for putting it back was more a question of priority, whether or not we wanted people to have the convenience of coming to the Civic Center here for their permit, versus going to the neighborhood center. So I do not know if it was necessarily something that was a need, versus this is something that we want to do for the community.

Councilmember Yukimura: It is definitely a budgetary decision made by the Mayor and the Council.

Ms. Rapozo: Correct.

Councilmember Yukimura: It is not any decision that the HR Department is making.

Ms. Rapozo: Right.

Councilmember Yukimura: Thank you.

Council Chair Rapozo: Councilmember Brun.

Councilmember Brun: I have a follow-up on that. So for the Vacancy Review Committee, like you said, it is trying to cut down on government; how many positions did they cut back in the last two (2) years?

Ms. Rapozo: I think it is in the report here somewhere. I do not know about positions that were cut, but the initial...there were savings of over one million dollars (\$1,000,000). This is on page 17 at the bottom. From the first year we were in existence, it was a dollar figure that was used, but I do not have the number of positions.

Councilmember Brun: So it is more of we just dollar-funded positions instead of paying the salary on it. I guess what I am looking for is how much did we actually cut? You brought up the Council, I have been here for two (2) budgets and Council Chair tried to cut around forty (40) to fifty (50) positions and it never received any support from the Administration. So I am just wondering...I do not think we cut any...maybe one position or something.

Councilmember Yukimura: It did not get support from the Council.

Councilmember Brun: Go ahead, Councilmember Yukimura.

Councilmember Yukimura: No, I am just saying that it did not get support from the Council, right? It did not...

Councilmember Brun: That is exactly what I am trying to say...

Council Chair Rapozo: What you said is correct. The Administration came up here and testified against it.

Councilmember Brun: They needed every single position that we tried to cut.

Council Chair Rapozo: Yes, every one of them.

Councilmember Brun: I guess I am looking for what did we try to cut with this Vacancy Review Committee, how many positions were actually cut, if you could get that for me. I know that every time we come here, there are dollar-funded positions for seven hundred (700) days and we always say that we need them. I think those are something that they would be looking at and they would cut even before they come to us at the Council. Can I get that number, please?

Ms. Rapozo: Yes.

Councilmember Brun: Thank you.

Council Chair Rapozo: Page 17 tells you that in fiscal year 2015, they met thirteen times. In fiscal year 2016, they met twenty-four times. In fiscal year 2017, they met seven (7) times, and in 2018, they met one time so far. So not being used as much as it used to, but that could be because we have cut most of what can be cut. Sometimes, we are so successful that you success your way right out of the work, which is a good thing. There was reference in the audit to the unskilled laborer; what positions are exempt from civil service? Which positions in the County are basically where the Administration can hire who they want? Obviously, the EM is one of them.

Ms. Rapozo: No, EMs are civil service.

Council Chair Rapozo: But are they exempt?

Ms. Rapozo: Yes, there are some EMs that are exempt, but not all of them are exempt. Most of them are civil service. If they are like an Executive Assistant to the Mayor EM, then they are exempt. They are exempt by virtue of them being in the Office of the Mayor, not by virtue of them being an EM.

Council Chair Rapozo: Okay.

Ms. Rapozo: There are a bunch of exemptions, for example, Housing. There is an exemption 77-76-14, which is Housing. All of Housing positions can be exempt from civil service.

Council Chair Rapozo: So that they do not have to participate in the...

Ms. Rapozo: They do not have to go through the merit process, go through a list and all of that.

Council Chair Rapozo: Okay.

Ms. Rapozo: Anything in the Office of the Mayor...there are fourteen (14) different exemptions that would allow someone to not have to go through the civil service process.

Council Chair Rapozo: What is it as it relates to...they reference...I think it was in your response that the unskilled...to keep making sure that these positions remained in that category...what were you alluding to?

Ms. Rapozo: What I was referencing is in the first audit, in the 2015 audit, the finding number 8 was referencing that the unskilled laborers, which were laborers, groundskeepers, janitors, landfill laborers, and the like...there was no way for us to...we were not documenting when a position would be considered "unskilled." So they still go through the civil service process through a list. They have to be registered beyond a list. What the audit had found back in 2015 is when we create a new class, let us say we create a class of a clerical position or some new class, we did not go through a process to ensure that, "Is this one unskilled and now becomes one of these positions that just goes on a registration list?" That is what we had done for the skilled or unskilled laborers in 2015 to address the concern that they had. The other thing that they had cited us in 2015 was that we did not have any type of process to ensure that exempt positions went through some kind of screening process. So after the audit, I checked with the various jurisdictions to see what do they do and they said, "That is the reason they are exempt, Janine. They are exempt from civil service, so you do not go through that." The only one that has something that is in their charter that says they have to ensure that the appointing authority ensures that the person is qualified and meets the requirements of that particular position is the City and County of Honolulu, but it is because it is in their charter. Maui exempts positions...they hire. It is basically you hire someone that you feel can do the position, do the job. I was referencing basically that is what was cited in the first audit, but yet was not addressed in the second audit. So I was not sure if it is a follow-up why those were not followed-up. There was some follow-up on the initial survey that they did present to us asking about the exempt positions, "How are we ensuring that they meet some kind of requirement?" I came back and I said, "Well, this is what the other jurisdictions have told me. Can you cite to something in HRS that would say we had to do this?" Then it was just dropped. So we just did not address it or they did not address it going further.

Council Chair Rapozo: So currently all unskilled...that is a harsh word to use for an employee, but it is what it is. So groundskeepers, janitors, and all of this class of employees are not required to take a test obviously. What do you mean by register?

Ms. Rapozo: They register as long...I think it is just a high school diploma...it can be General Education Development (GED), too.

Council Chair Rapozo: Then just apply with the County?

Ms. Rapozo: Then they are on a registration list.

Council Chair Rapozo: Then from that list, if there is no...do you just pick who you want at that point? Does the department head just pick anybody? It is not ranked I guess I should say.

Ms. Rapozo: Yes, they are all equally qualified.

Council Chair Rapozo: So at that point, it is the department head's and the mayor's prerogative to pick who they want?

Ms. Rapozo: Correct.

Council Chair Rapozo: Okay. Thank you. Councilmember Yukimura.

Councilmember Yukimura: So unskilled laborers are considered exempt?

Ms. Rapozo: No, two different topics. Sorry.

Councilmember Yukimura: Okay, the exempt are the ones in the political offices or the offices like Housing that are not official departments?

Ms. Rapozo: There is a specific exemption in HRS for Housing employees. I am not sure why in their wisdom the legislators did that, but it is an exemption in Chapter 76-77(14).

Councilmember Yukimura: What does the City and County do based on its charter? Does that mean that it is unskilled laborers or is the City and County an issue of exempt qualification?

Ms. Rapozo: Yes.

Councilmember Yukimura: So civil service unskilled laborers do not have to go through any vetting process?

Ms. Rapozo: They do vet through the classification process which says they have to have a high school education.

Councilmember Yukimura: But you do not do any background research in terms of experience or previous employer recommendations or anything like that?

Ms. Rapozo: We do, once they are given a conditional offer...no, before they are given a conditional offer, we do reference checks.

Councilmember Yukimura: But not to vet them in terms of selecting them?

Ms. Rapozo: Correct.

Councilmember Yukimura: Okay. Is that true in all counties at this point?

Ms. Rapozo: That I am aware of, yes.

Council Chair Rapozo: Anyone else? If not, thank you. Anyone else want to come up and testify? Tyler, did you have anything else to add? If not, I will call the meeting back to order. Further discussion? Councilmember Kagawa.

There being no objections, the meeting was called back to order, and proceeded as follows:

Councilmember Kagawa: I sense that while there is a little disagreement about how things should have been, I kind of like it that the auditor brought up some points that makes the Administration feel uncomfortable. That is certainly the auditor's job. If the auditor is just going to come and praise everything that we are doing, while we know there are concerns out there, we have employees at times that bring things up...I just heard one recently where they feel like an awardee of a job, a management position was not proper. So I think the auditor is functioning the way it should be, keeping the County on its toes. We need an independent source to alarm us that these are areas that should be improved and the EM process of selection certainly needs to be improved. While I agree that having the documents in order, I know certainly of some situations where we did promote an EM and it was a "slam dunk" that the person was doing the job of an EM. He is supervising numerous departments and numerous projects and getting levels of an SR pay. By golly, this guy is going far beyond, then you hear of some say, "Wow, he is an EM, but he is supervising projects." You should be a Project Manager then. I would think an EM means you are supervising significant numbers of employees and multitasking as far as responsibilities. So if you are just managing projects that are done by private contractors, then I would think that is not really an EM type of position. But we have it and it is what it is. If other counties are allowing it, then fine, but I think at the end of the day, as long as we have a fair process in place where we are not handing it off to somebody because we like the person, I think that is what we want to stay away from and that is how this County will get in trouble. Again, I thank Tyler. Nobody likes to go through an audit. I worked in the audit profession before and when the client feels uncomfortable, I think that is when you are doing your job. Like I said, we are just wasting our money if we are saying, "Auditor, come and praise all of the good things that we are doing." That is not the purpose of an audit. Thank you.

Council Chair Rapozo: Anyone else? Councilmember Kawakami.

Councilmember Kawakami: Thank you, Mr. Chair. I think you hit the nail on the head, Vice Chair. What this does is improves our efficiencies, but most importantly, for DHR, DHR is such a critical department because that helps to lessen our likelihood of getting sued or grievances being filed is to have the proper documentation. In a lot of cases and these types of promotions, there is going to be disgruntled workers, and oftentimes, they will potentially sue the County. That is why these recommendations are so critical. It gives us a point by point process, so when somebody says, "Can you justify the promotion of this individual," that we have the documentation in place. So I think it was good findings. We still have work to

do. As with everything in life, there is always room for improvement. I see the audit as a great tool for this County. Thank you.

Council Chair Rapozo:

Councilmember Yukimura.

Councilmember Yukimura: Yes, I believe in audits and I think audits are helpful to us as a County. I think though that sometimes the departments...if a department is uncomfortable because there is a valid finding then that is one thing, but sometimes departments can be uncomfortable because they were not accurately heard or maybe there were some findings made based on some assumptions. For example, I think there is a big difference between the Big Island's selection committee and the Vacancy Review Committee on Kaua'i. So that can be disconcerting to a department. I think careful listening is important wherever we are. I think if the bottom line outcome is that we improve our efficiencies and our professionalism and our processes in terms of fairness and clarity then that is good and I hear the department clearly embracing those goals and I think they have been working towards that. I appreciate that and I appreciate both the auditor and the department.

Council Chair Rapozo:

Anyone else? Councilmember Kagawa.

Councilmember Kagawa: I just wanted to follow-up that I am not by no means saying that DHR did anything wrong. We manage a two hundred million dollar (\$200,000,000) budget and they do the job of trying to take care of all of the employee stuff. The audit that Tyler came out with, he called it like he saw it and DHR was given their process and they called it how they saw it as well. I think it was a good process and we take everything and try to just get better as a County. I think that is what Councilmember Kawakami said. To look at the audit and say, "Wow, I wish they all came out praising each other"—if that was the hope of having the audit, then I think we are wasting our time. I am happy with the process and I think Tyler brought up things that has alerted us and I think DHR has responded with their response. I think where we go from here is hopefully that will go to a process that this County just continually improves. I talked about it earlier today. It is not saying that they made a mistake. A mistake is when you know something had to be done and you did not do it or you were negligent or what have you. I think sometimes it is just about what the audit uncovers is that, "We should do this better, so it looks like this, this, and this" and we have to take it and use our experience and say, "Okay, maybe we can improve on these areas." At the end of the day, I hope the audit does not point fingers at anybody, but just helps us to get better. That is all I think we can say because we are just laypeople here at this table.

Council Chair Rapozo:

Councilmember Kaneshiro.

Councilmember Kaneshiro: I definitely think the audit did help us get better. The original audit was from 2009-2013 and since then, DHR has implemented a lot of different policies and procedures and they are still in the process of tightening up a lot of them. I understand it is difficult. I do believe they are fighting fires most of the time on other stuff and it kind of detracts from them being able to really nail down a policy, but I do see them working and moving forward on a lot of things that were found in the old audit. I think we will see a better process and policies over time with this. It has started, there are things that they have implemented and there are

things that they just have to tie up, maybe the draft policies and things and finalize it. I do see this as a positive step.

Council Chair Rapozo: Anyone else? Well, I will just say "thank you" to Tyler and his group and HR for going through the process. I hear a lot today about "audits are good" and I think every audit that I have ever proposed got killed at this table, not so much with most of you here. But it is a tool; it is not an investigative audit to find out what was done wrong. I guess the problem that I am having and I know that DHR is tasked with a lot of things, but policies...how can an organization function without policies? That came up in the last audit and we still have not addressed it. I think to me, that is a priority. It is just in my opinion that we really have to focus and that is really for the protection of our employees, the department, and the County. It is critical. Those policies have to be done, especially when it comes to these types of promotions, reallocations, and transfers. We cannot function on verbal or oral commitments. We cannot do that, not in today's world. I appreciate the effort that is being put in, but I am hoping that these results will elevate the urgency at the HR Department to get moving on those policies. It is difficult to function without written policies. The rest of it, raising the awareness...I do not know if I have ever seen the results of any audit, whether it is here at the County or the State or wherever where both sides agreed on the discrepancies, but what this does is raises the awareness that, "Hey, this might lead to some issues that we have to work on." I appreciate the HR Director today acknowledging and moving forward and working on some of these recommendations. I think overall it was a great process and I still believe that audits are the way to go. If you want to make an area or department efficient, County or State, you have to focus on these audits and treat it as a tool to create better efficiencies. Thank you all for being here. I appreciate your time. Anything else? If not, the motion on the floor is to receive.

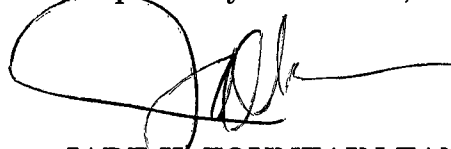
The motion to receive C 2018-144 for the record was then put, and carried by a vote of 6:0:1 (*Councilmember Chock was excused*).

Council Chair Rapozo: Motion carried. Thank you. That concludes today's agenda. We have a public hearing at 1:30 p.m.

ADJOURNMENT.

There being no further business, the Council Meeting adjourned at 11:19 a.m.

Respectfully submitted,



JADE K. FOUNTAIN-TANIGAWA
County Clerk

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